

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Brian Keith Alford,	:	
	:	Case No. 3:21-cv-01123
Plaintiff,	:	
	:	
v.	:	Judge James G. Carr
	:	
Robert Zilles, et al.,	:	Magistrate Judge Darrell A. Clay
	:	
Defendants.	:	

ANSWER OF DEFENDANT, KATHLEEN MEEHAN-DELACRUZ

Now comes the Defendant, Kathleen Meehan-DelaCruz, by and through counsel, and for her answer to Plaintiff's Complaint (Doc. 1) and Amended Complaint (Doc. 11) herein states as follows:

The Sixth Circuit Court of Appeals has narrowed down Plaintiff's remaining claim as follows: "Alford has stated a claim regarding the denial of properly fitted footwear needed due to circulation, neuropathy, balance, scoliosis, and degenerative spine disorder. Neuropathy may constitute a serious medical need, and Alford has sufficiently alleged a denial of medical care" (*Alford v. Zilles*, 2023 U.S. App. LEXIS 12637, *6).

Defendant denies each and every material allegation of Plaintiff's Complaint and Amended Complaint.

FIRST DEFENSE

1. Plaintiff's Complaint (Doc. 1) and Amended Complaint (Doc. 11) , fail to state a claim upon which relief can be granted.

SECOND DEFENSE

2. Plaintiff has failed to exhaust all administrative remedies.

THIRD DEFENSE

3. The conduct of Plaintiff, in whole or in part, bars Plaintiff's claims for relief.

FOURTH DEFENSE

4. Plaintiff's claims may be barred by expired statutes of limitations.

FIFTH DEFENSE

5. Plaintiff's Complaint (Doc. 1) and Amended Complaint (Doc. 11) are barred, in whole or in part, by the doctrine of consent.

SIXTH DEFENSE

6. Plaintiff's claims are barred because Plaintiff assumed the risk of the injuries that are alleged to exist.

SEVENTH DEFENSE

7. Plaintiff is barred from relief due to the extent and degree of Plaintiff's negligence.

EIGHTH DEFENSE

8. Plaintiff's claims may be barred, in whole or in part, by a failure to mitigate damages.

NINTH DEFENSE

9. Plaintiff's claims may be barred by Plaintiff's failure to join any party or parties under Rule 19 and/or 19.1.

TENTH DEFENSE

10. Plaintiff's claims are barred, in whole or in part, by a lack of standing to seek the relief for which they pray.

ELEVENTH DEFENSE

11. Plaintiff claims are barred, in whole or in part, by a lack of capacity to see the relief for which they pray and/or because this matter as brought is non-justiciable.

TWELFTH DEFENSE

12. The answering Defendants are entitled to immunity, including statutory, absolute, and qualified immunity, and also immunity from punitive damages.

THIRTEENTH DEFENSE

13. Plaintiff's claims against the answering Defendants are expressly subject to, barred, or limited by the provisions of Ohio's Political Subdivision Tort Immunity Statute, Ohio Revised Code Chapter 2744.

FOURTEENTH DEFENSE

14. Plaintiff's Complaint (Doc. 1) and Amended Complaint (Doc. 11) fail to state facts sufficient to entitle Plaintiff to an award of punitive damages against the answering Defendant.

FIFTEENTH DEFENSE

15. Plaintiff's claims for punitive damages cannot be sustained because the conduct of the answering Defendants do not show complete indifference to or conscious disregard for the safety of others.

SIXTEENTH DEFENSE

16. Plaintiff's claims for punitive damages are expressly barred by the provisions of Ohio's Political Subdivision Tort Immunity Statute, Ohio Revised Code Chapter 2744.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seek punitive damages or exemplary damages against the answering Defendant, an award of those types is contrary to the United States and Ohio Constitutions, as well as federal and state statutes, and is therefore not available to Plaintiff.

EIGHTEENTH DEFENSE

18. The answering Defendant is entitled to a setoff of damages and/or limitation of damages pursuant to federal and state statutes.

NINETEENTH DEFENSE

19. Plaintiff is barred from relief because the answering Defendant acted in good faith.

TWENTIETH DEFENSE

20. Plaintiff is barred from relief because the answering Defendant acted lawfully at all times.

TWENTY-FIRST DEFENSE

21. Plaintiff's claims against the answering Defendant may be expressly subject to, barred, or limited by the provisions of the Prison Litigation Reform Act, 42 U.S.C. §1997e.

TWENTY-SECOND DEFENSE

22. Plaintiff's claims may be impacted by the Prison Litigation Reform Act, including any authorization of attorney's fees.

TWENTY-THIRD DEFENSE

23. Plaintiff's claims are barred against the answering Defendant because the answering Defendant did not proximately cause any injury to Plaintiff.

TWENTY-FOURTH DEFENSE

24. To the extent Plaintiff seeks injunctive relief, Plaintiff failed to properly move.

TWENTY-FIFTH DEFENSE

25. Plaintiff's claims are barred, in whole or in part, because they are brought against an entity not subject to suit.

TWENTY-SIXTH DEFENSE

26. Plaintiff's claims are barred, in whole or in part, because Plaintiff do not satisfy the requirements of Fed. R. Civ. P. 23 nor S.D. Ohio Civ. R. 23.2.

TWENTY-SEVENTH DEFENSE

27. The answering Defendant hereby gives notice that she intends to rely upon and utilize any other affirmative defenses that might become available or apparent during the course of discovery and hereby reserve the right to amend this Answer to assert such defense or defenses.

WHEREFORE, Defendant, Kathleen Meehan-DelaCruz, demands that Plaintiff's claims against this Defendant be dismissed in their entirety and with prejudice.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

s/Marcy A. Vonderwell

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Counsel for Defendant

JURY DEMAND

The answering Defendant hereby demands a trial by jury on all issues herein triable.

s/Marcy A. Vonderwell

MARCY A. VONDERWELL (0078311)

Senior Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2023, a copy of *Defendant's Answer to Plaintiff's Complaint and Amended Complaint* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Marcy A. Vonderwell

MARCY A. VONDERWELL (078311)

Senior Assistant Attorney General